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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,755	01/15/2004	Anthony John White	7422	4285

7590
Gauthier & Connors LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

10/01/2007

EXAMINER

PATEL, TAJASH D

ART UNIT	PAPER NUMBER
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3765

MAIL DATE	DELIVERY MODE
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10/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,755

Applicant(s)

WHITE, ANTHONY JOHN

Examiner

Tejash D. Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 7-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5, 7-8, 10-13, 15 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker et al. (US 921,352) in view of Kerr (US 7,080,411).

Blaker et al. (hereinafter Blaker) discloses an appliance for protecting against impact and strain injury including a plurality of interconnected plates (6) of an impact resistant material being attached to an article/vest (1) worn about the body such as to permit limited relative movement between the plates, page 1, col. 2, lines 67-68. Further, the plates are aligned along a common stitched backing member (7) defined as a pair of ligaments that extends centrally along the appliance as shown in figure 3. Also, the interconnected plates attached to the backing member in a fixed relative disposition thereto by fastener (8) are in mutually overlapping relationship as shown in figure 4. However, Blaker does not show means (10,11) are provided for removably mounting the appliance about the body when the vest is worn.

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Kerr discloses overlapping rigid plates being removably attached to the vest by hook and loop material, col. 2, lines 35-39.

It would have been obvious to one skilled in the art at the time the invention was made to fasten the backing member of Blaker with removable hook and loop material as taught by Kerr in order to replace damaged plates pr depending on the particular end use thereof.

With regard to claim 11, it would have been obvious that the backing member of Blaker when viewed with Kerr can be attached by snaps, buckles, eyelets, etc since such fastening means is considered equivalent in the art. Further, with regard to claim 17, it would have been obvious that the interconnected plates of Blaker can be made of any desired material that was available at the time the device was made or depending on the end use thereof.

3. Claims 9, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaker in view of Kerr as applied to claim 1 above, and further in view of White (US 6,305,031). Blaker discloses the invention as set forth above except for showing the backing member being elastic.

White disclose an appliance having a plurality of overlapping plates that are secured to one another by an elastic backing member (19), col. 2, lines 53-58.

It would have been obvious to one skilled in the art at the time the invention was made to form the backing member of Blaker when viewed with Kerr from an elastic material as taught by White in order to provide additional flexibility to the wearer when the device is worn or depending on the end use thereof.

With regard to claim 16, it would have been obvious to one skilled in the art that the

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appliance of Blaker when viewed with Blaker and White can be applied to any article of clothing as required for a particular application thereof.

Response to Amendment

4. The amendment and arguments filed on July 13, 2007 have been considered. In view of such, a newly discovered has prompted this office action to be made new-non Final and the arguments are moot.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The fax number for the group is (571) 273-8300.

September 28, 2007



**TEJASH PATEL
PRIMARY EXAMINER**